

PACHULSKI STANG ZIEHL & JONES LLP

Jeffrey N. Pomerantz (CA Bar No. 143717)

John A. Morris (NY Bar No. 2405397)

Gregory V. Demo (NY Bar No. 5371992)

Hayley R. Winograd (NY Bar No. 5612569)

10100 Santa Monica Blvd., 13th Floor

Los Angeles, CA 90067

Telephone: (310) 277-6910

Facsimile: (310) 201-0760

Email: [jpomerantz@pszjlaw.com](mailto:jpomerantz@pszjlaw.com)

[jmorris@pszjlaw.com](mailto:jmorris@pszjlaw.com)

[gdemo@pszjlaw.com](mailto:gdemo@pszjlaw.com)

[hwinograd@pszjlaw.com](mailto:hwinograd@pszjlaw.com)

-and-

HAYWARD PLLC

Melissa S. Hayward (Texas Bar No. 24044908)

Zachery Z. Annable (Texas Bar No. 24053075)

10501 N. Central Expy., Ste. 106

Dallas, Texas 75231

Telephone: (972) 755-7100

Facsimile: (972) 755-7110

Email: [MHayward@HaywardFirm.com](mailto:MHayward@HaywardFirm.com)

[ZAnnable@HaywardFirm.com](mailto:ZAnnable@HaywardFirm.com)

*Counsel for Highland Capital Management, L.P.*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.

Chapter 11

Case No. 19-34054-sgj

**STIPULATION FINALLY RESOLVING ALL LITIGATION CONCERNING A PRIOR  
CONTEMPT ORDER AND RELATED PROCEEDINGS**

This stipulation (the “Stipulation”) is made by and among Highland Capital Management, L.P. (“HCMLP”), the reorganized debtor in the above-referenced bankruptcy case, The Charitable DAF Fund LP (“DAF”), CLO Holdco Ltd. (“CLOH”), Sbaiti & Company PLLC (“Sbaiti & Co.”), Mazin Sbaiti (“Sbaiti”), Jonathan Bridges (“Bridges”), Mark Patrick (“Patrick”), and James

Dondero (“Dondero”, and together with DAF, CLOH, Sbaiti & Co., Sbaiti, Bridges, and Patrick, the “Respondents”, and the Respondents and HCMLP together as the “Parties”), by and through their respective undersigned counsel.

### **RECITALS**

**WHEREAS**, on April 23, 2021, Highland filed a *Motion for an Order Requiring the Violators to Show Cause Why They Should Not Be Held in Civil Contempt for Violating Two Court Orders* and supporting documentation [Docket Nos. 2235, 2236, 2237, 2247] (the “Motion”) in the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”);

**WHEREAS**, on May 14, 2021, the Respondents filed their respective objections to the Motion [Docket Nos. 2309, 2312, and 2313] (collectively, the “Objections”);

**WHEREAS**, on May 21, 2021, Highland filed its omnibus reply to the Objections [Docket No. 2349];

**WHEREAS**, on August 3, 2021, the Bankruptcy court issued a *Memorandum Opinion and Order Holding Certain Parties and Their Attorneys in Civil Contempt of Court for Violations of Bankruptcy Court Orders* [Docket No. 2660] (the “Bankruptcy Court Order”);

**WHEREAS**, on September 28, 2022, after the Respondents appealed the Bankruptcy Court Order and the Parties briefed the appeal, the United States District Court for the Northern District of Texas (the “District Court”) issued a *Memorandum Opinion and Order* affirming in part and vacating in part the Bankruptcy Court Order [Civ. Action No. 3:21-cv-01974-X, Docket No. 49] (the “District Court Order”);

**WHEREAS**, on April 26, 2024, after the Respondents appealed the District Court Order and the Parties briefed and argued the appeal, the United States Court of Appeals for the Fifth Circuit (the “Fifth Circuit”) issued an opinion and judgment in which it vacated the District Court

Order and remanded to the District Court for further proceedings in accordance with the judgment (Case No. 22-11036, Docket No. 140-1] (the “Fifth Circuit Opinion and Judgment”);

**WHEREAS**, on May 6, 2024, the District Court remanded the action to the bankruptcy court for further proceedings [Civ. Action No. 3:21-cv-01974-X, Docket No. 57];

**WHEREAS**, on May 21, 2024, the Bankruptcy Court issued an *Order in Response to District Court’s and Fifth Circuit’s Remand Regarding Bankruptcy Court’s August 4, 2021 Sanctions Order* [Docket No. 4070] (the “Remand Order”) in which the Bankruptcy Court established a briefing schedule to govern the remanded proceeding;

**WHEREAS**, subject to the Bankruptcy Court’s approval, in order to conserve resources and eliminate litigation risks, the Parties have negotiated in good faith to finally and fully resolve all claims, disputes, and issues concerning the Motion, the Bankruptcy Court Order, District Court Order, the Fifth Circuit Opinion and Judgment, and the Remand Order on the terms set forth herein,

**NOW, WHEREFORE, IT IS HEREBY JOINTLY STIPULATED AND AGREED** as follows:

1. The Parties disagree on the meaning and intent of the Fifth Circuit Opinion and Judgment but (a) agree to seek no further relief, and file no further pleadings (except for a joint motion to approve this Stipulation), in connection with the Motion; (b) agree not to seek additional contempt with respect to the underlying allegations set forth in the Motion; and (c) otherwise reserve the right to make whatever arguments they believe are appropriate in any forum concerning the meaning of the Fifth Circuit Opinion and Judgment and to challenge any other Parties’ arguments about the meaning of the Fifth Circuit Opinion and Judgment;

2. The Respondents agree, individually and collectively, that they shall not assert any claim, or seek leave to assert any claim (through an amended pleading or otherwise), against any Protected Party<sup>1</sup> in any court without obtaining the Bankruptcy Court's prior approval under the Gatekeeper Provisions,<sup>2</sup> to the extent the Gatekeeper Provisions are applicable and in effect;
3. Highland shall return to the DAF the sum of \$239,655.00 that was tendered to secure the original award within five (5) business days of the entry of an order approving this Stipulation (the "Approval Order");
4. The parties shall deem satisfied the bills of costs filed at Docket Nos. 135 and 137 in Case No. 22-11036 and Docket No. 95 in Case No. 22-10189, both pending before the Fifth Circuit; and
5. After the entry of an Approval Order, the Parties shall cooperate in good faith to take all steps necessary to implement this Stipulation, including jointly notifying the District Court and the Fifth Circuit of the entry of an Approval Order.
6. The Parties agree that the Bankruptcy Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Stipulation and any Approval Order.

[Remainder of Page Intentionally Blank]

---

<sup>1</sup> "Protected Party" refers to any person or entity protected under any of the applicable Gatekeeper Provisions (as that term is defined in footnote 2).

<sup>2</sup> "Gatekeeper Provisions" refers, individually and collectively, to (a) Section 10 of the *Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course* [Docket No. 339]; (b) Section 5 of the *Order Approving Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer, and Foreign Representative Nunc Pro Tunc to March 15, 2020* [Docket No. 854]; and (c) Section IX.F of the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Docket No. 1943, Ex. A].

Dated: June 24, 2024

**PACHULSKI STANG ZIEHL & JONES LLP**

Jeffrey N. Pomerantz (CA Bar No. 143717)  
John A. Morris (NY Bar No. 2405397)  
Gregory V. Demo (NY Bar No. 5371992)  
Hayley R. Winograd (NY Bar No. 5612569)  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
Telephone: (310) 277-6910  
Facsimile: (310) 201-0760  
Email: jpomerantz@pszjlaw.com  
jmorris@pszjlaw.com  
gdemo@pszjlaw.com  
hwinograd@pszjlaw.com

-and-

**HAYWARD PLLC**

/s/ Zachery Z. Annable

---

Melissa S. Hayward (Texas Bar No. 24044908)  
Zachery Z. Annable (Texas Bar No. 24053075)  
10501 N. Central Expy, Ste. 106  
Dallas, Texas 75231  
Telephone: (972) 755-7100  
Facsimile: (972) 755-7110  
Email: MHayward@HaywardFirm.com  
ZAnnable@HaywardFirm.com

*Counsel for Highland Capital Management, L.P.*

**SCHAERR | JAFFE LLP**

/s/ Erik S. Jaffe

---

Erik S. Jaffe  
Lead Counsel  
Brian J. Field  
Aaron Gordon  
1717 K Street NW, Suite 900  
Washington, DC 20006  
Telephone: (202) 787-1060  
ejaffe@schaerr-jaffe.com

-and-

**SBAITI & COMPANY PLLC**

Mazin A. Sbaiti  
Jonathan Bridges  
JPMorgan Chase Tower  
2200 Ross Avenue  
Suite 4900W  
Dallas, TX 75201  
Telephone: (214) 432-2899  
mas@sbaitilaw.com

*Counsel for Appellants The Charitable DAF Fund, L.P.;  
CLO Holdco, Ltd.; Mark Patrick; Sbaiti & Company, PLLC;  
Mazin A. Sbaiti; and Jonathan Bridges*

**LEVINGER PC**

/s/ Jeffrey S. Levinger  
Jeffrey S. Levinger  
jlevinger@levingerpc.com  
J. Carl Cecere (of counsel)  
ccecere@cecerepc.com  
1700 Pacific Ave., Suite 2390  
Dallas, Texas 75201  
Telephone: 214-855-6817  
Facsimile: 214-817-4509

*Attorneys for Appellant  
James Dondero*